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2116-CV07328 - ANA FUENTES ET AL V STONEYBROOK  
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Affidavit of Service Upon Defendant Stoneybrook South Apartments, LLC; Electronic Filing Certificate of Service.

**Filed By:** ANDREA MARI KNERNSCHIELD

**On Behalf Of:** ANA FUENTES, PEDRO LOPEZ, KELVIN LOPEZ, TANNETT WASHINGTON, TIYONNA WATKINS, CHRIS WALTER

☐ [Notice of Service](#)

Affidavit of Service Upon Defendant KM-T.E.H. Realty 1, LLC; Electronic Filing Certificate of Service.

**Filed By:** ANDREA MARI KNERNSCHIELD

☐ [Corporation Served](#)

Document ID - 21-SMCC-3273; Served To - STONEYBROOK SOUTH APARTMENTS, LLC; Server - ; Served Date - 23-APR-21; Served Time - 15:07:00; Service Type - Special Process Server; Reason Description - Served; Service Text - RITA YOUNG - PROPERTY MANAGER

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Document ID - 21-SMCC-3274; Served To - KM-T.E.H. REALTY 1, LLC; Server - ; Served Date - 23-APR-21; Served Time - 15:58:00; Service Type - Special Process Server; Reason Description - Served; Service Text - MARTY BUTLER - ADMIN ASSIST

04/13/2021 ☐ [Summons Issued-Circuit](#)

Document ID: 21-SMCC-3274, for KM-T.E.H. REALTY 1, LLC.

☐ [Summons Issued-Circuit](#)

Document ID: 21-SMCC-3273, for STONEYBROOK SOUTH APARTMENTS, LLC.

☐ [Order - Special Process Server](#)04/12/2021 ☐ [Motion Special Process Server](#)

Plaintiffs Motion for Appointment of Private Process Server and proposed Order; Electronic Filing Certificate of Service.

**Filed By:** ANDREA MARI KNERNSCHIELD

**On Behalf Of:** ANA FUENTES, PEDRO LOPEZ, KELVIN LOPEZ, TANNETT WASHINGTON, TIYONNA WATKINS, CHRIS WALTER

03/30/2021 ☐ [Correspondence Sent](#)

Letter to attorney how is service to be done

☐ [Case Mgmt Conf Scheduled](#)

**Scheduled For:** 07/20/2021; 9:00 AM ; S MARGENE BURNETT; Jackson - Kansas City

03/25/2021 ☐ [Request for Jury Trial Filed](#)

[Case 4:21-cv-00356-DGK Document 1-1 Filed 05/24/21 Page 1 of 11](#)

☐ **Filing Info Sheet eFiling**

**Filed By:** GREGORY ALAN LEYH

☐ **Pet Filed in Circuit Ct**

Petition for Breach of Contract and Tortious Interference With Contract; Exhibit A; Exhibit B; Exhibit C; Exhibit D.

**Filed By:** GREGORY ALAN LEYH

**On Behalf Of:** ANA FUENTES, PEDRO LOPEZ, KELVIN LOPEZ, TANNETT WASHINGTON, TIYONNA WATKINS, CHRIS WALTER

☐ **Judge Assigned**

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI  
AT KANSAS CITY, MISSOURI

ANA FUENTES, PEDRO LOPEZ,  
and KELVIN LOPEZ,  
8503 E. 114<sup>th</sup> Terr.  
Kansas City, Missouri, 64134

and

TANNETT WASHINGTON,  
11442 Blue Ridge Blvd., # 80  
Kansas City, Missouri 64134

and

TIYONNA WATKINS,  
11518 East 14<sup>th</sup> Street South, Apartment R  
Independence, Missouri 64052

and

CHRIS WALTER,  
10915 Grandview Road,  
Kansas City, Missouri 64137

Plaintiffs,

v.

STONEBROOK SOUTH APARTMENTS,  
LLC,  
1501-1508 Thomas Avenue  
Grandview, Missouri 64030

SERVE: STONEBROOK SOUTH  
APARTMENTS, LLC,  
Registered Agent: Alan Retkinski  
1501-1508 Thomas Avenue  
Grandview, Missouri 64030

and

KM-T.E.H. REALTY 1, LLC,  
1501-1508 Thomas Ave.  
Grandview, Missouri 64030

Case No.

Division \_\_\_\_

SERVE: KM-T.E.H. REALTY 1, LLC,  
Registered Agent: Registered Agents Inc.  
117 South Lexington Street, Ste. 100  
Harrisonville, Missouri 64701

Defendants.

**PETITION FOR BREACH OF CONTRACT  
AND TORTIOUS INTERFERENCE WITH CONTRACT**

COME NOW Plaintiffs Ana Fuentes, Pedro Lopez, Kelvin Lopez, Tannett Washington, Tiyonna Watkins, and Chris Walter, and file this Petition for Breach of Contract and Tortious Interference with Contract against defendants StoneyBrook South Apartments, LLC and KM-T.E.H. Realty 1, LLC and in support thereof state as follows:

**NATURE OF THIS ACTION**

1. Plaintiffs previously entered into a settlement agreement on December 31, 2020 with defendant Stoneybrook Apartments, LLC arising from Case No. 2016-CV19826 in the Circuit Court of Jackson County, Missouri at Kansas City in Division 11.

2. After plaintiffs and Stoneybrook Apartments, LLC executed the settlement agreement and after plaintiffs complied with the material terms of the agreement, plaintiffs dismissed with prejudice Stoneybrook Apartments, LLC in Case No. 2016-CV19826.

3. Plaintiffs allege that defendant Stoneybrook Apartments, LLC breached the settlement agreement, and KM-T.E.H. Realty 1, LLC tortiously interred with the settlement agreement. The Purpose of this Petition is to seek the value of the money the plaintiffs have been deprived due to defendants' actions constituting a breach of the settlement agreement.

**PARTIES**

4. Plaintiffs Ana Fuentes, Pedro Lopez and Kelvin Lopez are natural persons and residents of 8503 E. 114<sup>th</sup> Terr., Kansas City, Missouri, County of Jackson.

5. Plaintiff Tannett Washington is a natural person who resides at Ruskin Place Apartments at 11442 Blue Ridge Blvd., # 80, Kansas City, Missouri, County of Jackson, Missouri.

6. Plaintiff Tiyonna Watkins is a natural person and resident of 11518 East 14<sup>th</sup> Street South, Apartment R, Independence, Missouri 64052.

7. Plaintiff Chris Walters is a natural person and resident of 10915 Grandview Road, Kansas City, Missouri 64137.

8. Defendant Stoneybrook South Apartments, LLC (“Stoneybrook”) is a Missouri Limited Liability Company, doing business in the state of Missouri and registered by the Missouri Secretary of State under the registration number LC001687589.

9. Defendant KM-T.E.H. Realty 1, LLC (“KM 1”) is a Missouri Limited Liability Company, doing business in the State of Missouri and is registered by the Missouri Secretary of State under registration number LC1350000.

#### **JURISDICTION AND VENUE**

10. This court has jurisdiction over this action because defendants Stoneybrook and KM 1, within this state: i) transacted business, 2) made a contract, and 3) conspired to deprive plaintiffs of the benefits of a contract.

11. Plaintiffs have incurred damages as a result of defendants’ wrongful conduct, as is more fully described below.

12. Venue is proper in this Court pursuant to RSMo § 508.010.2 because the wrongful conduct occurred in Jackson County, Missouri.

#### **FACTUAL ALLEGATIONS**

13. On December 31, 2020, Stoneybrook executed a Settlement Agreement and Mutual Release (“SAMR”) with plaintiffs.

14. The SAMR provided that Stoneybrook would make a payment of money to plaintiffs.

15. The SAMR also required that Stoneybrook had an obligation to pay a Note in the amount of \$246,325.20 to KM 1.

16. The SAMR included a representation and warranty from Stoneybrook that it had an obligation to make payments pursuant to the Note.

17. The SAMR included a representation and warranty from Stoneybrook that it would not pre-pay the Note as permitted by paragraph 1.4 of the Note.

18. Paragraph 1.4 of the Note provides that Stoneybrook shall have the right to pre-pay the Note at any time prior to the Maturity date without penalty.

19. Notwithstanding its representation and warranty in the SAMR, Stoneybrook pre-paid the Note prior to the Maturity date without penalty.

20. Stoneybrook was aware that at the time the SAMR was executed that plaintiffs intended to seek judicial relief in order to obtain rights as the payee on the Note.

21. On December 31, 2020, Stoneybrook paid KM 1 \$246,325.20 by check number 40014420. The check was issued by Chicago Title on behalf of Stoneybrook.

22. Check number 40014420 was negotiated by attorney Jay Neustadter on behalf of KM 1 c/o Ickovics Neustadter Myers & Co., 30 Sheshet Hayamim St., Bnei Berak, Israel 5120261.

**COUNT ONE**

**BREACH OF CONTRACT**

**PLAINTIFFS V. DEFENDANT STONEYBROOK**

23. Plaintiffs restate and allege the allegations contained in paragraphs 1-22 as if stated in full in Count One.



24. Stoneybrook and plaintiffs signed the SAMR.
25. The SAMR provided that Stoneybrook represented that it would not pre-pay the Note in the amount of \$246,325.20 to KM 1 at any time prior to the Maturity date of the Note without penalty.
26. The Maturity date of the Note is defined as follows:
- 1.1 Maturity Date: The Loan shall become mature and immediately due and payable at the earlier of, a refinance or sale of the Secured Property (defined below) or on October 21, 2020 ("Maturity Date"); provided, Payor closes on and receives full title to the Secured Property on April 21, 2020. In no event shall the Loan become due prior to six (6) months from the closing date on the subject Secured Property. For avoidance of any doubt, the entirety of this Loan is contingent upon Payor obtaining full title to the Secured Property.
27. The Maturity date of the Note "is contingent upon Payor obtaining full title to the Secured Property."
28. The Payor of the Note is Stoneybrook.
29. The Secured Property refers to the property secured by two Deeds of Trust.
30. One Deed of Trust is called Refinance Deed of Trust, Assignment of Leases and Rents, Security Agreement, and Fixture Filing and was recorded on July 2, 2020. A copy of the Refinance Deed of Trust is attached as Exhibit A.
31. The other Deed of Trust identifying the Secured Property was recorded on April 23, 2020 and identifies the Grantee as KM 1. This Deed of Trust was a junior lien in favor Stoneybrook and is attached as Exhibit B.
32. The Deed of Trust serving as a junior lien states that the rights afforded to Stoneybrook under the Deed of Trust "are subordinate to Grantor's mortgage lender for the subject Property, Pimlico Group LLC. Grantor acknowledges that its rights herein are subordinate to Pimlico Group, LLC both in foreclosure and monetary remedies. No provision set forth within

this Deed of Trust shall modify Pimlico Group LLCs senior and priority position over the Property.” See Exhibit B, at ¶ 1 on p. 3.

33. The rights of the junior lienholder (Stoneybrook) and the senior lienholder (Pimlico Group LLC) are set forth in a Subordination and Standstill Agreement dated April 20, 2020. The Subordination and Standstill Agreement (“SSA”) is attached as Exhibit C.

34. In the SSA, Stoneybrook agreed to subordinate its debt to KM-TEH Realty 1, LLC in the amount of \$246,325.20 to the senior debt owed by Stoneybrook to Pimlico Group LLC.

35. In the SSA, Stoneybrook also agreed to subordinate its lien (junior Deed of Trust) to the lien of Pimlico Group LLC (senior Deed of Trust).

36. Following execution of the SAMR, KM 1 recorded a Full Deed of Release on January 13, 2021. See Exhibit D.

37. The Full Deed of Release states that “in consideration of the full payment of said debt, do(es) hereby acknowledge satisfaction of said Deed of Trust and release the property herein and hereinafter described from the lien and effect of same . . . .” Exhibit D, at 1.

38. The Full Deed of Release serves to release only the Deed of Trust recorded on April 23, 2020.

39. The Full Deed of Release does not release the interests or lien of Pimlico Group, LLC as set forth in the Refinance Deed of Trust.

40. The senior Refinance Deed of Trust has not been released.

41. Because the senior Deed of Trust has not been released, Stoneybrook has not obtained full title to the Secured Property.

42. Stoneybrook does not have full title to the Secured Property.

43. Stoneybrook did not have full title to the Secured Property on April 21, 2020.



44. Stoneybrook paid off the Note in the amount of \$246,325.20 to KM 1 before it obtained full title to the Secured Property.

45. Stoneybrook's premature payoff of the Note deprived plaintiffs of their right to receive the benefits of the Note.

46. As such, plaintiffs seek the value of the money they have been deprived due to Stoneybrook's premature payment of the Note constituting a breach of the SAMR.

47. As a direct and proximate cause of Stoneybrook's breach of contract, plaintiffs suffered and continue to suffer damages in an amount to be determined at trial.

48. As a result of Stoneybrook's breach of contract, Stoneybrook is liable to plaintiffs for damages, including \$246,325.20, interest on \$246,325.20, costs of suit, pre-judgment interest, post-judgment interest, and other such relief as the court may determine.

WHEREFORE, plaintiffs pray for judgment against defendant Stoneybrook on Count One of this Petition for Breach of Contract, for actual damages, together with pre and post-judgment interest, the costs of suit, and for such other and further relief as the Court deems just and proper.

## **COUNT TWO**

### **TORTIOUS INTERFERENCE WITH A CONTRACT**

#### **PLAINTIFFS V. KM 1**

49. Plaintiffs incorporate by reference the allegations previously set forth in paragraphs 1-48 as if set forth in Count Two.

50. The SAMR was a contract.

51. KM 1, including its agents, attorneys and representatives, had knowledge that plaintiffs reached a settlement with Stoneybrook before December 31, 2020.

52. KM 1 desired to receive full payment from Stoneybrook on the Note in the amount of \$246,325.20.

53. Upon information and belief, prior to its receipt of check number 40014420 from Chicago Title in the amount of \$246,325.20, KM 1 had communications with Stoneybrook or its legal counsel regarding receipt of funds owed under the Note.

54. Upon information and belief, prior to its receipt of check number 40014420 from Chicago Title in the amount of \$246,325.20, KM 1 or its agents or attorneys or representatives learned that plaintiffs or the Fuentes class intended to seek payment on the Note.

55. Upon information and belief, prior to its receipt of check number 40014420 from Chicago Title in the amount of \$246,325.20, KM 1 or its agents or attorneys or representatives learned that plaintiffs or the Fuentes class intended to pursue an alter ego theory as the source of its claim on the funds owed to KM 1 from the Note.

56. Upon information and belief, prior to its receipt of check number 40014420 from Chicago Title in the amount of \$246,325.20, KM 1 or its agents or attorneys or representatives viewed one or more drafts of the SAMR.

57. Upon information and belief, KM 1 encouraged Stoneybrook to pay the Note in full in 2020.

58. As such, plaintiffs seek compensation for the damages arising from KM 1's tortious interference with the SAMR.

WHEREFORE, plaintiffs pray this Court enter judgment in their favor and against defendant KM 1 on Count Two of the Petition for Tortious Interference with a Contract, for actual damages, for pre and post-judgment interest, for the costs of suit, and for such other and further relief as the Court may deem necessary and proper.

**JURY TRIAL DEMAND**

Plaintiffs demand a trial by jury on all issues so triable.

Dated: March 25, 2021

RESPECTFULLY SUBMITTED,

GREGORY LEYH, P.C.

/s/ Gregory Leyh

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